

**BILL NO. BL2018-1202** (ELROD) – This ordinance, as amended by a second substitute, would regulate operators of systems of shared urban mobility devices (SUMDs) and establish a permitting system for these operators.

A pilot program would be created to authorize operators to operate a SUMD within Metro Nashville. The application would include a \$500 application fee, images and descriptions of the SUMDs and mobile application, size of the fleet at launch and any planned fleet expansions, service area launch and planned expansions, a plan for educating users on proper parking, a plan for providing an equitable share service, and a plan for complying with the ordinance and its requirements. Operators would be required to obtain a certificate of public necessity and convenience by submitting an application to the Metropolitan Transportation Licensing Commission (MTLC). Applications would also be required to include a certificate of insurance evidencing a minimum of one million dollars in automobile insurance and two million dollars in commercial general liability insurance.

After meeting all application requirements, operators would also be required to submit a program administrative fee of thirty-five (\$35) dollars per SUMD to the MTLC, a performance bond of eighty dollars (\$80) per SUMD with a cap of \$100,000, and five (5) user account logins for Metro oversight.

Metro would be prohibited from limiting the number of permitted operators. A certificate of public necessity and convenience issued under the pilot program would be issued for one (1) year and could be renewed by the MTLC only after reapplication. Operators who operated without a permit after June 15, 2018 would be barred from obtaining a permit for one year from the effective date of the ordinance. The MTLC would be authorized to promulgate regulations to interpret and administer the program.

All bicycles, electric bicycles, and electric scooters would be required to follow standards set forth within state and federal law, including the Code of Federal Regulations, the Tennessee Code Annotated, and definitions from the National Highway Traffic Safety Administration. Scooters could have a top speed of less than 15 miles per hour when operated by a rider weighing 170 pounds. The MTLC could adopt standards to address other types of urban mobility devices (UMDs) and choose to allow them. Operators would be required to provide mechanisms whereby users can notify the operator of any safety concerns.

SUMDs would be affixed with language requiring helmet use, yielding to pedestrians, and compliance with rules of the road. It would also be required to affix information that a SUMD could not be operated on a sidewalk within a business district, audible signals must be given before overtaking and passing pedestrians, and that a 24-hour service phone number and a unique identifier. Operators would be responsible for regularly educating users on applicable laws relating to operating a SUMD. All SUMDs would be required to include on-board GPS for locating and retrieving the SUMD. All SUMDs would need to be regularly inspected, maintained, and replaced as necessary. All certificate holders would be required to sign and record with the MTLC an indemnification agreement, in a form approved by the Metro Department of Law. The certificate holder would further be required to include a similar provision for users to release and waive all liability of the Metro Government. Certificate holders would submit monthly reports to the MTLC certifying under oath their compliance with the requirements of the ordinance. MTLC

staff would have the right to inspect all SUMDs and records to verify accuracy of the reports. Any false certifications would result in revocation of the certificate of public convenience and necessity, after notice and a hearing before the MTLC.

Operators would be required to inform users on property use and parking of SUMDs. Permits issued would be valid only for operations within the public right-of-way within Metro. Additional zones could be established upon coordination with appropriate departments, agencies, and/or property owners. The Department of Public Works would be authorized to remove a SUMD parked in any one location for more than two (2) days. SUMDs would be required to be parked upright and could not impede the right of way or access to the right of way, consistent with certain other limitations. Permitted operators would be required to provide contact information for relocation requests of SUMDs.

SUMDs could not be operated on a sidewalk within a business district. The Traffic and Parking Commission may also designate specific areas as business districts. Users would be required to yield to pedestrians and give audible signals before overtaking and passing pedestrians. Operators would be required to comply with any restrictions developed by Metro regarding where SUMDs could be deployed, parked, and operated. Only one rider could operate a SUMD, unless equipped with seating for additional users. SUMDs could only be operated by persons over the age of eighteen. SUMDs that meet the definition of motorized vehicle could not be operated by a person without a driver's license. A violation of this ordinance by a user would result in a fine of twenty-five (\$25) dollars, assessed on the SUMD and paid by the owner of the SUMD.

Permitted operators would be required to have a staffed operations center within the boundaries of Metro, and a 24-hour customer service phone number for reports of safety concerns, complaints, and questions. The operators would also be required to maintain a Nashville-specific website or social media platform that includes information on Metro's regulation of SUMDs. Any inoperable or unsafe SUMD would be required to be removed from the right-of-way within 2 hours of notice between 6am and 10pm on weekdays, excluding holidays, and within 10 hours of notification at all other times and any inoperable or unsafe SUMD would need to be repaired before being placed back onto the right-of-way or into revenue service. After notice and a hearing, the MTLC would be authorized to take any appropriate steps to compel operators to comply with the ordinance or applicable. MTLC staff is authorized to take any temporary action until a hearing is held.

Operators would be required to share real-time, anonymized data with Metro on topics including point location, type of SUMD, and fuel level. Operators would be required to provide data for each trip and parking compliance. Operators and users would be required to consent to the sharing of this data with Metro. Operators would be required to consent to distribute a customer survey, provided by Metro, to all users.

Permitted operators' fleets would be limited in number with separate limitations for each type or category of SUMD. Each type or category in an operator's fleet would be limited in number to 500 during the first month of the pilot, 750 beginning at the second month of the pilot, and 1,000 beginning at the third month of the pilot. After the third month, permitted operators could expand beyond 1,000 upon application to the MTLC. Operators could increase their fleet on a monthly

basis if their provided data demonstrates their fleet is being used above the average utilization threshold, as determined by the MTLC. Service areas of operators could not exceed 340 of each SUMD type per square mile. Any permitted operators with more than 1,000 SUMDs would be required to include Nashville Promise Zones in 20% or more of their service area.

Operators would be required to plan to provide equitable access in neighborhoods and communities where users are underserved by mobility and transportation options. This includes

providing pricing options for low-income residents, providing discount programs for low income individuals, developing plans that do not require smartphones, providing cash payment options, and providing adaptive SUMDs for operation by people with disabilities.

The MTLC would further be required to conduct a study no later than July 1, 2019 to determine if revenue generated by fees are sufficient to cover permitting, administration, compliance and enforcement, determine the impact of SUMDs, and recommend changes to the ordinance, or other Metro ordinances, policies, or practices.

Amendments added at the August 7 meeting included the following:

- Clarifies the definition of “business district” to refer to areas that include buildings in use for business or industrial purposes occupying 300 feet of frontage on either side of a highway within any 600 foot span;
- Eliminates references to “segways” (governed exclusively under state law);
- Requires submission of a written plan for equitable access upon application;
- Clarifies lighting requirements for electric bicycles and scooters;
- Requires signaling by users audible to pedestrians;
- Clarifies the specific departments within the Metropolitan Government responsible for various duties;
- Clarifies that fines assessed upon SUMD owners for ordinance violations are in addition to penalties for separate violations of Tennessee law or other Metro Code provisions;
- Establishes an implementation period for application program interface (API) keys and REST specifications through Metro ITS;
- Revises the number of SUMD devices allowed per operator per device, as noted above; and
- Requires that operators be able to remotely disable individual SUMDs

At least one amendment is anticipated to further address remote disabling requirements.

*Fiscal Note: This pilot program would require an application fee of \$500 for each operator, as well as a program administrative fee of forty dollars (\$35) per SUMD. The results of this pilot would determine if a modification to the fee structure in the future is appropriate.*

*The ordinance further provides: "If the Metropolitan Government or any department or agency thereof incurs any costs as a result of addressing or abating a permitted operator's violation of these requirements, or incurs any costs of repair or maintenance of public property, upon receiving written notice of the costs, the permitted operator shall reimburse the Metropolitan Government for such costs within thirty (30) days."*